

## **REMARKS/ARGUMENTS**

Claims 1, 2, 4-10, 12, 13, 15-17, 19, 21, 22 and 24-32 are pending in the present application. Claims 1, 2, 4-7, 10, 13, 19, 21, 22, 24 and 26 were amended. Claims 3, 11, 14, 18, 20 and 23 were canceled; and claims 27-32 were added. Support for the added claims can be found, for example, on page 7, line 26 to page 8, line 14 and on page 10, line 20 to page 11, line 7 of the specification. Applicants have carefully considered the cited art and the Examiner's comments, and believe the claims patentably distinguish over the cited art in their present form. Reconsideration of the rejection is, accordingly, respectfully requested in view of the above amendments and the following comments.

### **I. 35 U.S.C. § 112, Second Paragraph**

The Examiner has rejected claim 7 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter, which applicants regard as the invention.

In rejecting the claims, the Examiner states:

Regarding claim 7, the limitation includes "each item" however it is unclear as to what are the items the limitation refers too.

Office Action dated June 6, 2007, page 2.

In response, claim 7 has been amended to utilize terminology included in independent claim 1, and claims 5 and 6 have been amended in a similar manner. Claim 7 is now believed to be clear and definite throughout, and to satisfy the requirements of 35 U.S.C. § 112, second paragraph, in all respects.

Therefore the rejection of claim 7 under 35 U.S.C. § 112, second paragraph has been overcome.

### **II. 35 U.S.C. § 101**

The Examiner has rejected claims 1-26 under 35 U.S.C. § 101 as being directed towards non-statutory subject matter. This rejection is respectfully traversed.

In rejecting the claims, the Examiner states:

Claim 1 recites "a processor", "a memory", "input device", short range transmitter... ", "receiving... a first set of ratings.. < "receiving a second set of rating... ", and "updating the first set of ratings...". The claims do not provide a tangible result such as displaying the updated rating.  
Claims 2-26 do not resolve the tangibility issue.

Office Action dated June 6, 2007, pages 2-3.

In order to expedite prosecution, claim 1 has been amended as suggested by the Examiner to recite that the processor is configured for “displaying said updated ones of said first set of ratings”. Independent claims 10 and 19 have been amended in a similar manner. Independent claims 1, 10 and 19 and the claims dependent thereon now fully comply with the requirements of 35 U.S.C. § 101 in all respects.

Therefore, the rejection of the claims under 35 U.S.C. § 101 has been overcome.

### **III. 35 U.S.C. § 103, Obviousness (Claims 1-4, 8-11 and 18-20)**

The Examiner has rejected claims 1-4, 8-11 and 18-20 under 35 U.S.C. § 103(a) as being unpatentable over US Patent Application Publication Number 2002/0002920 to Andrew M. Prohel et al., (hereinafter “Prohel”) in view of US Patent Number 6,631,184 to Moshe Weiner, (hereinafter “Weiner”). This rejection is respectfully traversed.

In rejecting the claims, the Examiner states:

As per independent claim 1 Prohel teaches:  
a processor (Figure 6, paragraph 59, processor);  
a memory connected to said processor (Figure 6);  
an input device connected to said processor (paragraph 18, PDA, mobile phone, portable computer);  
an output device connected to said processor (paragraph 18, PDA, mobile phone, portable computer); and a short-range transceiver connected to said processor, said processor, said memory, said input device, said output device, and said transceiver being contained within a case configured for portability (paragraph 18, PDA, mobile phone, portable computer and paragraph 17, lines 6-8, wireless communication);  
said processor being configured for receiving, from said input device, a first set of ratings for . . . subject (paragraph 19-20, user history information editor to associate ratings and comments concerning digital content), receiving, through said transceiver, a second set of ratings for ... (paragraph 28, review received digital content having associated user history information) updating ones of said first set of ratings by merging with corresponding ones of said second set of ratings (paragraph 30, aggregate ratings).

Prohel does not explicitly teach “ones of plurality of subjects”. Weiner does teach this limitation at column 2, lines 54-column 3, line 7, providing ratings and feed back with regard to products and services based on communities to enable users to receive ratings and feedback on products and services of interest at column 5, lines 5-10. It would have been obvious to one of ordinary skill in the art to modify Prohel with a plurality of subjects to enable users to receive ratings and feedback on products and services of interest at column 5, lines 5-10.

Office Action dated June 6, 2007, pages 3-4.

Claim 1, as amended herein, is as follows:

1. A device for collecting ratings on a plurality of subjects, said device comprising:
  - a processor;
  - a memory connected to said processor;
  - an input device connected to said processor;
  - an output device connected to said processor; and
  - a short-range transceiver connected to said processor, wherein said processor, said memory, said input device, said output device, and said transceiver are contained within a case configured for portability; said processor being configured for:
    - receiving, from said input device, a first set of ratings for ones of a plurality of subjects,
    - storing a policy specifying whether rating information is to be accepted through said short-range transceiver,
    - responsive to said policy being met, receiving, through said short-range transceiver, a second set of ratings for ones of said plurality of subjects,
    - updating ones of said first set of ratings by merging with corresponding ones of said second set of ratings, and
    - displaying said updated ones of said first set of ratings.

The Examiner bears the burden of establishing a *prima facie* case of obviousness based on the prior art when rejecting claims under 35 U.S.C. § 103. *In re Fritch*, 972 F.2d 1260, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992). For an invention to be *prima facie* obvious, the prior art must teach or suggest all claim limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). In this case, the Examiner has not met this burden because all of the recited features of the claims are not found in the cited prior art references as believed by the Examiner. With respect to claim 1, in particular, neither Prohel nor Weiner nor their combination discloses or suggests “storing a policy specifying whether rating information is to be accepted through said short-range transceiver”, or “responsive to said policy being met, receiving, through said short-range transceiver, a second set of ratings for ones of said plurality of subjects.”

In the Office Action, the Examiner asserted that Prohel discloses storing a policy in connection with the rejection of claim 11 (now canceled). In particular, the Examiner stated:

As per claim 11, same as claim arguments above and Prohel teaches: wherein said storing step further comprising storing a policy to guide which sets of ratings are accepted and said receiving step or said merging step is performed dependent on said policy being met (paragraph 25, lines 10-13, user history information may be hidden or visible to all or a subset of users).

Office Action dated June 6, 2007, page 7.

Applicants respectfully disagree. Paragraph 25, lines 10-13 of Prohel referred to by the Examiner is as follows:

[0025] At block 210, device 5 attaches user history information to the digital content. For example, the user, Clark Kent, may give a classic jazz music file a rating of "7" and include the user comment "like cool man." Also, instead of using his true identity ("Clark Kent"), Clark uses an alias, "Superman." The attached user history information may be attached to the digital content via an editor. The user history information may be attached to the digital content in the natural format of the digital content or in a new file format, for example. The user history information may be hidden or visible to all or a subset of users. In one embodiment, users may modify their own user history information but not the user history information of other users. In one embodiment, the attached user history information on the digital content may take the form of metadata.

Nowhere in the above paragraph, or anywhere else in Prohel, is there a disclosure or suggestion of "storing a policy specifying whether rating information is to be accepted through said short-range transceiver." Prohel describes that history information is attached to digital content, and that it may be hidden or visible to all or a subset of users. The paragraph describes that the history information may be hidden with respect to certain users and not hidden with respect to other users. There is nothing to indicate, however, that there is a policy specifying whether rating information is to be accepted. Prohel does not disclose or suggest storing a policy specifying whether rating information is to be accepted. In the present invention, a user is able to specify a policy by which rating information is to be accepted in order, for example, to preclude one person from biasing the data or to enable additional information to be collected from persons having a high degree of similarity to the recipient of the data (see, for example, pages 7 and 8 of the specification).

Neither Prohel nor Weiner discloses or suggests "storing a policy specifying whether rating information is to be accepted through said short-range transceiver", and, accordingly, the references also do not disclose or suggest "responsive to said policy being met, receiving, through said short-range transceiver, a second set of ratings for ones of said plurality of subjects" as additionally recited in claim 1. Claim 1, accordingly, is not obvious over Prohel in view of Weiner, and patentably distinguishes over the references in its present form.

Independent claims 10 and 19 have been amended in a similar manner as claim 1 and patentably distinguish over Prohel in view of Weiner for similar reasons as discussed above with respect to claim 1.

Claims 2, 4, 8, 9, and 20 depend from and further restrict one of the independent claims and also patentably distinguish over Prohel in view of Weiner, at least by virtue of their dependency.

Dependent claims 27-32 have been added to more fully protect Applicants' invention. Claims 27, 29 and 31 recite examples of policies regarding whether rating information is or is not accepted; and claims 28, 30 and 32 specify that the policy is entered by a user. Neither Prohel nor Weiner nor their combination discloses or suggests the subject matter recited in claims 27-32, and these claims should be allowable over the references in their own right as well as by virtue of their dependency.

Therefore, the rejection of claims 1-4, 8-11, 18-20 under 35 U.S.C. § 103(a) has been overcome.

**IV. 35 U.S.C. § 103, Obviousness (Claims 13, 14, 22, 23)**

The Examiner has rejected claims 13-14, 22-23 under 35 U.S.C. 103(a) as being unpatentable over Prohel, in view of Weiner, and further in view of US Patent Application Number 2006/0156337 to Eric Thelen et al (hereinafter "Thelen"). This rejection is respectfully traversed.

In rejecting the claims, the Examiner states:

As per claim 13, same as claim arguments above and Prohel and Weiner do not explicitly teach broadcasting a request for ratings. Thelen does teach this limitation (at paragraph 85 requesting ratings) to exert influence on the programs of other users in the community at paragraph 85, lines 1-4. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Prohel and Weiner with broadcasting a request for ratings to exert influence on the programs of other users in the community at paragraph 85, lines 1-4.

As per claim 14, same as claim arguments above and Prohel and Weiner do not explicitly teach the step of responding to a broadcast of a request for ratings. Thelen does teach this limitation (at paragraph 86 receiving ratings) to exert influence on the / programs of other users in the community at paragraph 85, lines 1-4. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Prohel and Weiner with responding to a broadcast of a request for ratings to exert influence on the programs of other users in the community at paragraph 85, lines 1-4.

Claim 22 is rejected based on the same rational as claim 13.

Claim 23 is rejected based on the same rational as claim 14.

Office Action dated June 6, 2007, page 8.

Claims 14 and 23 have been canceled and their subject matter incorporated into claims 13 and 22, respectively. Claims 13 and 22 depend from and further restrict claims 10 and 19, respectively. Thelen does not supply the deficiencies in the principal references as discussed above. Accordingly, claims 13 and 22 patentably distinguish over the cited art, at least by virtue of their dependency.

Therefore, the rejection of claims 13, 14, 22 and 23 under 35 U.S.C. § 103(a) has been overcome.

V. **35 U.S.C. § 103, Obviousness (Claims 5-7, 12, 15-17, 21, 24-26)**

The Examiner has rejected claims 5-7, 12, 15-17, 21, 24-26 under 35 U.S.C. 103(a) as being unpatentable over Prohel and Weiner as applied to claim 1,10,19 above, and further in view of US Patent 6,317,881 to Anthony A. Shah-Nazaroff et al (hereinafter "Shah- Nazaroff"). This rejection is respectfully traversed.

In rejecting the claims, the Examiner states:

As per claim 5, same as claim arguments above and Pahal in view of Weiner do not explicitly teach wherein said processor is further configured for updating ones of said first set of ratings by calculating, for each item updated, a new weighted rating based on an existing weighted rating from said first set of ratings, an existing weighted rating from said second set of ratings, and a similarity factor between said first set of ratings and said second set of ratings Shah-Nazaroff teaches this limitation (column 5, lines 54 column 6, lines 6, as viewer characteristics and weighted average of the ratings) to determine the likelihood of interest to the user. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Profel in view of Weiner with wherein said processor is further configured for updating ones of said first set of ratings by calculating, for each item updated, a new weighted rating based on an existing weighted rating from said first set of ratings, an existing weighted rating from said second set of ratings, and a similarity factor between said first set of ratings and said second set of ratings to determine the likelihood of interest to the user as described by Shah-Nazaroff (column 3, lines 10-15).

As per claim 6, same as claim arguments above and Pahal in view of Weiner do not explicitly teach wherein said processor is further configured for updating ones of said first set of ratings by calculating, for each item updated, a new weighted rating based on an existing weighted rating from said first set of ratings, an existing individual rating from said second set of ratings, and a similarity factor between said first set of ratings and said second set of ratings. Shah-Nazaroff teaches this limitation (column 5, lines 54 column 6, lines 6, as viewer characteristics and weighted average of the ratings) to determine the likelihood of interest to the user. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Profel in view of Weiner with wherein said processor is further configured for updating ones of said first set of ratings by calculating, for each item updated, a new weighted rating based on an existing weighted rating from said first set of ratings, an existing individual rating from said second set of ratings, and a similarity factor between said first set of ratings and said second set of ratings to determine the likelihood of interest to the user as described by Shah-Nazaroff (column 3, lines 10-15).

As per claim 7, same as claim arguments above and Pahal in view of Weiner do not explicitly teach wherein said processor is configured to update ones of said first set of ratings by merging, for each item, a second semantic tree from said second set of ratings into a first semantic tree from said first set of ratings, then calculating a new weighted rating based on said first semantic tree . Shah-Nazaroff teaches this limitation (column 5, lines 54-65, as combine weighted ratings) to determine the likelihood of interest to the user. It would have

been obvious to a person of ordinary skill in the art at the time the invention was made to modify Profel in view of Weiner with wherein said processor is configured to update ones of said first set of ratings by merging, for each item, a second semantic tree from said second set of ratings into a first semantic tree from said first set of ratings, then calculating a new weighted rating based on said first semantic tree to determine the likelihood of interest to the user as described by Shah-Nazaroff (column 3, lines 10-15).

As per claim 12, same as claim arguments above and Pahal in view of Weiner do not explicitly teach wherein said merging step is performed dependent on said second set of ratings having a similarity of at least a given level to said first set of ratings. Shah- Nazaroff teaches this limitation (column 5, lines 40-65). to determine the likelihood of interest to the user. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Profel in view of Weiner with wherein said merging step is performed dependent on said second set of ratings having a similarity of at least a given level to said first set of ratings to determine the likelihood of interest to the user as described by Shah-Nazaroff (column 3, lines 1 0-15).

As per claim 15, same as claim arguments above and Pahal in view of Weiner do not explicitly teach wherein said merging step comprises receiving a plurality of individual responses for each of ones of said plurality of subjects and storing said plurality of individual responses in a semantic tree network for said subject. Shah-Nazaroff teaches this limitation (column 5, lines 54-59, receiving multiple viewer rating) to determine the likelihood of interest to the user. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Profel in view of Weiner with wherein said merging step comprises receiving a plurality of individual responses for each of ones of said plurality of subjects and storing said plurality of individual responses in a semantic tree network for said subject to determine the likelihood of interest to the user as described by Shah-Nazaroff (column 3, lines 10-1 5).

As per claim 16, same as claim arguments above and Shah-Nazaroff teaches wherein a rating for one of said plurality of subjects is calculated by summing all collected responses in a semantic tree network for said one of said plurality of subjects (column 5, lines 40-65, combining aggregate ratings).

As per claims 17, 26 same as claim arguments above and Prohel and Weiner do not explicitly teach wherein said merging step comprises calculating a rating by summing a first rating of said first set of ratings and a corresponding second rating of said second set of ratings, using a weighting factor. Shah-Nazaroff teaches this limitation (column 5, lines 40-65) to determine the likelihood of interest to the user. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Profel in view of Weiner with wherein said merging step comprises calculating a rating by summing a first rating of said first set of ratings and a corresponding second rating of said second set of ratings, using a weighting factor to determine the likelihood of interest to the user as described by Shah-Nazaroff (column 3, lines 10-15).

Claims 24-25 are rejected based on the same rationale as claims 15-16.

Office Action dated June 6, 2007, pages 9-13.

Claims 5-7, 12, 15-17, 21 and 24-26 depend from and further restrict one of independent claims 1, 10 and 19. Shah-Nazaroff does not supply the deficiencies in the principal references as described above. Accordingly, claims 5-7, 12, 15-17, 21 and 24-26 patentably distinguish over the references, at least by virtue of their dependency. Furthermore, many of the claims recite additional subject matter that is neither disclosed nor suggested by the references.

For example, neither Prohel nor Weiner nor Shah-Nazaroff nor their combination disclose or suggest “wherein said processor is further configured for updating ones of said first set of ratings by merging, for each of said ones of said first set of ratings, a second semantic tree from said second set of ratings into a first semantic tree from said first set of ratings, then calculating a new weighted rating based on said first semantic tree” as recited in claim 7. The Examiner refers to column 5, lines 54-65 of Shah-Nazaroff, reproduced below, as disclosing this feature:

Viewer characteristics for multiple simultaneous viewers can also be cross-referenced. Various aggregation techniques could be used to combine ratings. For instance, in one embodiment, if a viewer's characteristics match several ratings categories, the weighted average of the ratings could be used for a particular broadcast. In one example, viewer characteristics match three categories. In category A, 50% of the 500 responses were positive for the particular broadcast. In category B, 75% of the 2000 responses were positive. In category C, 90% of the 200 responses were positive. For this particular set of ratings categories, the weighted average for the broadcast is 71.481% positive.

The above paragraph does not discuss semantic trees, and certainly does not disclose or suggest “updating ones of said first set of ratings by merging, for each of said ones of said first set of ratings, a second semantic tree from said second set of ratings into a first semantic tree from said first set of ratings, then calculating a new weighted rating based on said first semantic tree”. Claim 7, accordingly, is not obvious over Thelen in view of Weiner and Shah-Nazaroff, and patentably distinguishes over the references in its own right as well as by virtue of its dependency from claim 1.

For similar reasons, claims 15, 16, 24 and 25 also patentably distinguish over the references in their own right as well as by virtue of their dependency.

Therefore, the rejection of 5-7, 12, 15-17, 21 and 24-26 under 35 U.S.C. 103(a) has been overcome.



**VI. Conclusion**

For at least all the above reasons, claims 1, 2, 4-10, 12, 13, 15-17, 19, 21, 22 and 24-32 patentably distinguish over the cited art and this application is believed to be in condition for allowance. It is, accordingly, respectfully requested that the Examiner so find and issue a Notice of Allowance in due course.

The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

DATE: September 6, 2007

Respectfully submitted,

/Gerald H. Glanzman/  
Gerald H. Glanzman  
Reg. No. 25,035  
Yee & Associates, P.C.  
P.O. Box 802333  
Dallas, TX 75380  
(972) 385-8777  
Attorney for Applicants